

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CARLTON DWAYNE FIELDS,
Plaintiff,
v.
SECRETARY OF CDCR, et al.,
Defendants.

No. 2:21-cv-0548-DAD-EFB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND GRANTING
DEFENDANTS' MOTION TO DISMISS

(Doc. Nos. 25, 30)

Plaintiff Carlton Dwayne Fields is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 16, 2022, the assigned magistrate judge issued findings and recommendations, recommending that defendants' motion to dismiss (Doc. No. 25) be granted and this action be dismissed due to plaintiff's failure to exhaust administrative remedies prior to filing suit as is required. (Doc. No. 30.) The findings and recommendations were served upon all parties and contained notice that any objections were to be filed within fourteen (14) days. (*Id.* at 11.) Plaintiff filed timely objections (Doc. No. 32) and defendants filed a response (Doc. No. 33) thereto.

Plaintiff briefly lists three objections with no supporting arguments. (Doc. No. 32.) First, plaintiff contends that his pleadings were not liberally construed in light of his *pro se* status and

1 that doubts were not resolved in his favor as required at the motion to dismiss stage of this
2 litigation. (*Id.* at 2.) Second, plaintiff asserts that he exhausted his administrative remedies prior
3 to filing suit as demonstrated by the exhibits attached to his second amended complaint. (*Id.* at
4 3.) Last, plaintiff asserts that his second amended complaint stated a cognizable claim for relief.
5 (*Id.*) In the pending findings and recommendations, the magistrate judge explicitly noted that all
6 doubts in construing the pleading must be resolved in plaintiff's favor (Doc. No. 30 at 2), and
7 plaintiff does not identify any instance in which the magistrate judge did not resolve in his favor
8 in construing his allegations or failed to liberally construe his allegations. Additionally, the
9 undersigned agrees with the magistrate judge that the administrative grievances attached to
10 plaintiff's second amended complaint do not serve to exhaust plaintiff's administrative remedies
11 as to the specific claims that plaintiff asserts in his second amend complaint. Finally, plaintiff
12 does not present an substantiated argument addressing the magistrate judge's reasoning in finding
13 that plaintiff had failed to state a cognizable claim for relief. Plaintiff's objections are, therefore,
14 unpersuasive.

15 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this
16 court has conducted a *de novo* review of this case. Having carefully reviewed the entire
17 file, including plaintiff's objections, the court finds the findings and recommendations to be
18 supported by the record and by proper analysis.

19 Accordingly,

- 20 1. The findings and recommendations issued June 16, 2022 (Doc. No. 30) are
21 adopted in full;
- 22 2. Defendants' motion to dismiss (Doc. No. 25) is granted;
- 23 3. Plaintiff's second amended complaint is dismissed due to plaintiff's failure to
24 exhaust his available administrative remedies prior to filing suit; and
- 25 4. The Clerk of the Court is directed to close this case.

26 IT IS SO ORDERED.

27 Dated: September 8, 2022

28 
UNITED STATES DISTRICT JUDGE